

REMARKS

Claims 4-6, 13-17 and 33-43 are pending in the application.

Claims 33, 38 and 40-43 have been rejected.

Claims 4-6, 13-17, 34-37 and 39 have been objected to.

Claims 33, 34, 38 and 40 have been amended as set forth herein.

Claims 4-6, 13-17 and 33-43 remain pending in this application.

Reconsideration of the claims is respectfully requested. The Applicants make the aforementioned amendments and subsequent arguments to place this application in condition for allowance. Alternatively, the Applicants make these amendments and offer these arguments to properly frame the issues for appeal. In this Response, the Applicants make no admission concerning any now moot rejection or objection, and affirmatively deny any position, statement or averment of the Examiner that was not specifically addressed herein.

I. ALLOWABLE SUBJECT MATTER

The Examiner objected to Claims 4-6, 13-17, 34-37 and 39 as being dependent upon a rejected base claim, but suggested that Claims 4-6, 13-17, 34-37 and 39 would be allowable if it were rewritten in independent form including all the limitations of the base and intervening claims. Applicants thank the Examiner for this suggestion but elect not to rewrite Claims 4-6, 13-17, 34-37 and 39 at this time.

II. **CLAIM REJECTIONS -- 35 U.S.C. § 103**

Claim 33 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,424,121 to Kubota (“*Kubota*”) and U.S. Patent No. 6,449,368 to Davis, et al (“*Davis*”). The Applicants respectfully traverse the rejection.

Claim 38 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kubota* and U.S. Patent 7,113,609 to Neidich et al (“*Neidich*”) and U.S. Patent No. 7,242,782 to Kasai, et al (“*Kasai*”). The Applicants respectfully traverse the rejection.

Claims 40-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,388,494 to Schöne, et al (“*Schöne*”) and *Davis*. The Applicants respectfully traverse the rejection.

Claim 43 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Schöne* and *Davis* and U.S. Patent No. 7,382,885 to Kim et al (“*Kim*”). The Applicants respectfully traverse the rejection.

Claims 42, 30 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Schöne* and *Davis* and U.S. Patent No. 7,242,782 to Kasai et al (“*Kasai*”). The Applicants respectfully traverse the rejection.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to

deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicants to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicants are entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

Independent Claim 33 recites the virtualizer comprising:

a first feedback crossover path configured to receive, delay, and filter signals output from the virtualizer; and
a forward crossover path configured to receive, delay, and filter an output of the filter, wherein an output of the first feedback path and an output of the forward crossover path are combined to produce at least one output signal from the virtualizer

Independent Claim 38 recites, *inter alia*, the virtualizer comprising:

at least one feedback crossover path configured to receive, delay, and filter signals output from the virtualizer; and
at least one forward crossover path configured to receive, delay, and filter an output of the filter, wherein an output of the at least one feedback path and an output of the at least one forward crossover path are combined to produce at least one output signal from the virtualizer.

Independent Claim 40 recites, *inter alia*,

generating second output signals for a second physical speaker, wherein the first and second output signals are generated from the received first physical speaker signal, wherein generating the second output signal comprises combining an output of at least one feedback crossover path operable to receive, delay, and filter the first output signal and a first forward crossover signal received from a first forward crossover path operable to receive, delay and filter a first input signal.

The Applicants respectfully submit that *Kubota, Davis, Neidich, Kasai* and *Schöne*, taken alone or in combination, fail to teach or suggest the aforementioned features of Claims 33, 38 and 40. In particular, it is submitted that none of the cited art provides a disclosure wherein a first output signal is provided through feedback crossover path operable to receive, delay, and filter the first output signal and combined with an output of a first forward crossover signal received from a first forward crossover path operable to receive, delay and filter a first input signal. For example, in the rejection of Claim 40, the Office Action contends that *Schöne* (fig. 1 (B13) (C2, C4); fig 11(B13); col. 12, lines 52-56; fig. 13a; and col. 17, line 41-55) teaches “wherein generating the second output signal comprises combining an output of the at least one feedback crossover path and a first forward crossover signal from a first forward crossover path operable to receive, delay and filter a first input signal.” However, *Schöne* expressly discloses that the output signal is not used in either feedback or feed forward; rather the feedback is taken from the transmission signal, not the output signal.

Accordingly, the Applicants respectfully request that the § 103 rejection with respect to Claims 33, 38 and 40, and their dependent claims, be withdrawn.

CONCLUSION

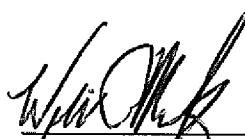
As a result of the foregoing, the Applicants assert that the remaining Claims in the Application are in condition for allowance, and respectfully request an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@munckcarter.com.

The Commissioner is hereby authorized to charge any additional fees (including any extension of time fees) connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, LLP



William A. Munck
Registration No. 39,308

Date: August 10-2010
P.O. Box 802432
Dallas, Texas 75380
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: wmunck@munckcarter.com